

## **Title IX Hearing Panel Resolution Rules of Decorum**

During a hearing for the resolution of an alleged violation of Section 600.020, Sexual Harassment under Title IX, of the UM System Collected Rules and Regulations (CRRs), the following general rules of decorum shall be adhered to:

1. Rules of common courtesy and decency shall be observed at all times.
2. All participants shall follow the instructions of the Hearing Officer with regard to the conduct of the proceedings.
3. During the hearing, the Parties, Advisors, and witnesses shall refrain from:
  - a. Intimidation, abusive language, personal attacks, insults, or engaging in noisy outbursts during the hearing;
  - b. Acting in a manner to harass, demean, or embarrass;
  - c. Asking repetitive or duplicative questions;
4. The Conduct of Hearing and Order of Evidence is set forth in CRR 600.030(Q)(10).
5. All evidence shall be made equally available by the Investigator to both Parties for use during the hearing, including during cross-examination.
6. Generally, a Party's statements should not exceed an hour in length. However, the University recognizes that depending on the factual circumstances of the case, more or less time may be appropriate. The Hearing Officer may provide reasonable extensions at their discretion.
7. Procedural questions should be made by a Party or Advisor by addressing the Hearing Officer after seeking and receiving recognition. Procedural questions which arise during the hearing and which are not covered by the CRRs shall be determined by the Hearing Officer (who may seek guidance from legal counsel), whose ruling shall be final.
8. If the hearing is being conducted using Zoom, or any other telepresence format, the Party or witness or other hearing participant is expected to be in a space where noninvolved persons are not present.
9. If the hearing is being conducted via Zoom, or any other telepresence format, the following rules apply:
  - a. Parties and witnesses who are submitting to cross-examination or questioning shall have the video feature activated. A failure to have the video feature activated during cross-examination or questioning shall be deemed a failure to submit to cross-examination.
  - b. A Party shall not send private messages to any other Party using the chat feature during the hearing.
  - c. All Parties will be provided separate, private "breakout rooms" where they will be able to confer with their Advisor in private, and off the record, and may request a conference at any time by messaging the Hearing Officer directly.
10. A Party's Advisor may object to question(s) asked by the opposing Party's Advisor on limited grounds, as follows:
  - a. Relevance, including but not limited to, the following:
    - i. Questions and evidence about the Complainant's pre-disposition or prior sexual behavior are not relevant, unless such questions and evidence about the Complainant's prior sexual behavior are offered to prove that someone other than the Respondent committed conduct alleged by the Complainant, or if the questions and evidence concern specific incidents of the Complainant's prior sexual behavior with respect to the Respondent and are offered to prove consent.

- ii. Character evidence is information that does not directly relate to the facts at issue, but instead reflects upon the reputation, personality, or qualities of an individual, including honesty. Such evidence regarding either Party's character is of limited utility and shall not be admitted unless deemed relevant by the Hearing Officer.
  - iii. Incidents or behaviors of a Party not directly related to a possible violation, unless they show a pattern of related misconduct. History of related misconduct by a Party that shows a pattern may be considered only if deemed relevant.
  - iv. A Party's records that are made or maintained by a physician, psychiatrist, psychologist, or other recognized professional or paraprofessional acting in the professional's or paraprofessional's capacity, or assisting in that capacity, and which are made or maintained in connection with the provision of treatment to the Party, may not be used without that Party's express consent.
- b. Repetitive / Duplicative Evidence
  - c. Compound Question
  - d. Badgering the witness
  - e. Declarant failed to submit to cross-examination
11. An Advisor may not challenge the Hearing Officer's relevance determination. A Hearing Officer's ruling is final.
  12. Where an Advisor asks a relevant question in a manner that violates the Rules of Decorum related to delivery of a question, the question may not be deemed irrelevant by the Hearing Officer simply because of the manner in which it was delivered. Under that circumstance, the Hearing Officer will notify the Advisor of the violation of the Rules, and, if relevant, will allow the question to be re-asked in an appropriate manner.
  13. The Hearing Officer shall have sole authority to determine whether these Rules of Decorum have been violated. The first violation of the Rules shall result in a warning to the offending person. In the event of any further violations, the Hearing Officer may dismiss the offending person from the hearing. The Hearing Officer shall document in writing any decision to dismiss the offending person from the hearing and the basis therefor.
    - a. If an Advisor is dismissed, that Party shall select an alternate Advisor. If necessary, the hearing may be temporarily delayed to facilitate replacement of the Party's Advisor. A Party cannot serve as their own Advisor in this circumstance.
    - b. If a Party or witness is dismissed, the hearing shall proceed in the manner set forth in CRR 600.030, and the Hearing Officer will determine if the Party or witness submitted to cross-examination.
  14. If a Party or witness does not submit to cross-examination at a hearing, the Hearing Panel must not rely on any statement of that Party or witness in reaching a determination regarding responsibility, but no inference can be drawn from the fact that a Party or witness failed to submit to cross-examination.